

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 526 – SB 1095

May 4, 2009

SUMMARY OF AMENDMENT (005614): Deletes all language after the enacting clause. Increases the penalty to a Class E felony for a second or subsequent violation of domestic assault, violation of an order of protection, or any combination thereof. Domestic assault is currently punished as assault which can be either a Class A or Class B misdemeanor. Violation of an order of protection or restraining order is currently punished as a Class A misdemeanor.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant
Increase State Expenditures - \$2,595,000/Incarcaration*

Increase Local Revenue – Not Significant
Increase Local Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – Not Significant
Increase State Expenditures - \$13,152,800/Incarceration*

Increase Local Revenue – Not Significant
Increase Local Expenditures – Not Significant

Assumptions applied to amendment:

- According to the Administrative Office of the Courts (AOC), there has been an average of 637 convictions of domestic assault in each of the past five years. The Department of Correction (DOC) estimates 50 percent (319) are second or subsequent convictions and will result in a Class E felony rather than a Class A or Class B misdemeanor.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in an additional 34 offenders in


the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 353 offenders.

- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days).
- Three hundred fifty-three offenders would receive a Class E felony as a result of this bill. The total additional operating cost for 353 offenders is \$12,548,482.83 (\$35,548.11 x 353).
- According to the AOC, there has been an average of 29 convictions of violations of orders of protection in each of the past three years. DOC estimates 50 percent (15) would be second or subsequent convictions and will result in a Class E felony rather than a Class A misdemeanor. Population growth will result in two additional offenders. Seventeen offenders would receive a Class E felony as a result of this bill. The total additional operating cost for 17 offenders is \$604,317.87 (\$35,548.11 x 17).
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of this bill.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc